

HOUSE BILL REPORT

HB 1128

As Amended by the Senate

Title: An act relating to the definition of the term "conviction" in chapter 77.15 RCW.

Brief Description: Modifying the definition of "conviction" for chapter 77.15 RCW.

Sponsors: By Representative Nixon.

Brief History:

Committee Activity:

Natural Resources, Ecology & Parks: 1/27/05, 2/4/05 [DP].

Floor Activity:

Passed House: 3/3/05, 97-0.

Senate Amended.

Passed Senate: 4/15/05, 47-0.

Brief Summary of Bill

- Expands the definition of the term "conviction" in the Fish and Wildlife Enforcement Code to include uncontested notices of infraction, judgements that an infraction has been committed, or failures to appear after requesting a hearing to challenge an infraction.

HOUSE COMMITTEE ON NATURAL RESOURCES, ECOLOGY & PARKS

Majority Report: Do pass. Signed by 10 members: Representatives B. Sullivan, Chair; Uptegrove, Vice Chair; Buck, Ranking Minority Member; Kretz, Assistant Ranking Minority Member; Blake, Dickerson, Eickmeyer, Hunt, Orcutt and Williams.

Minority Report: Without recommendation. Signed by 1 member: Representative DeBolt.

Staff: Jason Callahan (786-7117).

Background:

The Fish and Wildlife Enforcement Code (Code) contains a number of unlawful acts that relate to hunting, fishing, and other wildlife related activities. Throughout the Code, the term "conviction" is used to assign sanctions to a person found in violation of a fish or wildlife law. For instance, any fish or wildlife unlawfully harvested must be surrendered to the state, but only upon *conviction* of a Code violation. Similarly, the Department of Fish and Wildlife (Department) may revoke the license, tag, or stamp of any person who is *convicted* of a

violation of the Code, and must revoke for one year all of the commercial fishing privileges of a person *convicted* of unlawfully using a non-designated vessel for fishing.

Past convictions also serve as an element of certain crimes in the Code. A person can only be found guilty of the unlawful taking of endangered fish and wildlife in the first degree if that person was *convicted* of the same crime in the second degree within the past five years. Likewise, a *conviction* of a crime related to the taking of big game is a necessary element that must be proved before a person can be charged with the unlawful taking of big game in the first degree.

The term "conviction" is defined in the Code to mean:

- a final conviction in court;
- an unvacated forfeiture of bail or other collateral; and
- a guilty plea.

Some violations of the Code are punished not as criminal acts, but as civil infractions. For instance, a person found guilty of fishing in violation of a rule adopted by the Fish and Wildlife Commission would be punished for a natural resources infraction, but not for a misdemeanor or felony. Violations of these civil infractions do not satisfy the statutory definition of "conviction," and therefore are not considered convictions for the purposes of the Code.

Summary of Bill:

The definition of the term "conviction" in the Code is expanded to include uncontested notices of infraction, judgements that an infraction has been committed, or failures to appear after requesting a hearing to challenge an infraction. In addition, the Fish and Wildlife Commission may adopt rules that designate infractions that are not included in the definition of "conviction."

EFFECT OF SENATE AMENDMENT(S):

Removes the change to the definition of "conviction" and instead allows the Department of Fish and Wildlife to suspend recreational hunting or fishing privileges for individuals that have had three uncontested notices of infraction, that fails to appear at a hearing to contest an infraction, or that has been found to have committed an infraction. Also limits the infractions that can count as a conviction, and specifies that the Fish and Wildlife Commission can not use the rulemaking process to designate an infraction as a crime.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This bill gives the Fish and Wildlife Commission the authority to decriminalize certain recreational hunting and fishing violations, and still allow multiple violators have their hunting and fishing rights suspended. Decriminalizing certain fishing violations allows the Department to ticket fishers unknowingly violating the rules without charging the person with a crime. It does not decriminalize commercial fishers, since those in the business should be fully aware of the rules.

The intent of this bill has been expressed in proposed legislation in past session, but this version has been worked out with the regulated community, the Department, and other stakeholders.

Testimony Against: None.

Persons Testifying: Representative Nixon, prime sponsor; and Bruce Bjork, Washington Department of Fish and Wildlife.

Persons Signed In To Testify But Not Testifying: None.